inheritance claim exceeded [$7,374] it remained estate property under the trustee's control")). Ms. Ring ignores this reasoning from the Seventh Circuit in her Petition.

D. The Seventh Circuit's Decision was Correct

Ms. Ring's final argument consists of listing issues she believes were decided incorrectly by the Seventh Circuit. (Petition at 19-21). Although Ms. Ring postulates that "[t]here is much law and case law and bankruptcy code to support [her] arguments," she cites no such law or code. Neither does she say why the Seventh Circuit was incorrect about the issues she raises. In any event, there are no issues raised in this argument about which there is a circuit split, conflicts between state courts, or an unsettled issue of federal law. *See* Supreme Court Rule 10.

CONCLUSION

For the foregoing reasons, Ms. Ring's Petition for Writ of Certiorari should be denied.

Respectfully submitted this 23rd day of November, 2005.

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No. 05-518

IN THE
SUPREME COURT OF THE UNITED STATES

DONNA S. RING,

Petitioner

v.

WILLIAM J. RAMEKER,

Respondent

On Petition For A Writ of Certiorari
To The United States Court of Appeals
For The Seventh Circuit

REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

Donna S. Ring
Petitioner
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INTRODUCTION

The decision of the Seventh Circuit to uphold the settlement of my probate appeal case that was pending in the Wisconsin Court of Appeals at the commencement of my bankruptcy should not be allowed to stand. The ruling that the probate exception to federal jurisdiction did not apply to my bankruptcy case is in conflict with other federal courts resulting in a split of federal court authority.

A. The respondent, William J. Rameker, bankruptcy trustee, did not file a response brief in this case.

This reply brief is to the response filed by the Wrezic attorneys (attorneys for interested parties). The respondent, William J. Rameker, did not file a response. Mr. Rameker handled this bankruptcy settlement of my probate appeal but did not defend this settlement in subsequent bankruptcy court hearings; he did not file any briefs in the district court nor the Seventh Circuit. The Wrezic attorneys are the only party that has been defending this settlement. They have manipulated and misused the federal bankruptcy system to get rid of my probate appeal, and are absolutely the only party benefiting from this settlement.

B. On September 27, 2005, this Court granted the Petition for Writ of Certiorari in Case No. 04-1544 to answer questions relating to the scope and application of the probate exception.

On September 27, 2005, this Court granted the Petition for Writ of Certiorari to Case No. 04-1544, *Vickie Lynn Marshall v. E. Pierce Marshall.* The four questions presented to this Court all concern the scope and application of the probate exception to federal jurisdiction, including its

application in a bankruptcy case. This Court's decision in this above case will have a direct effect on my case as both cases involve settlements made in the bankruptcy court of pending probate cases. The difference between our two cases is that in the *Marshall* case, the petitioner, Vickie Lynn Marshall, does not want the probate exception to apply to her bankruptcy case and wants her probate settlement upheld; and in my case, the probate exception should be upheld to apply to a bankruptcy case which would void the settlement made in my probate appeal case.

Here is a direct circuit court of appeals conflict. In the above *Marshall* case, the Ninth Circuit Court of Appeals (*In re Marshall*, 392 F. 3d 1118 (9th Cir. 2004) vacated the bankruptcy court settlement and held the probate exception to federal jurisdiction applied in bankruptcy cases. In my case, the Seventh Circuit upheld the bankruptcy court settlement stating the probate exception did not apply, although in its decision the Seventh Circuit did recognize that there was a circuit court conflict regarding the probate exception and its application in bankruptcy (Appendix page 4).

REASONS WHY THIS PETITION FOR WRIT OF CERTIORARI SHOULD BE GRANTED

The Wrezic attorneys' response to my petition demonstrates why the petition should be granted, because it identifies the crucial issues and illustrates the confusion relating to the questions in my petition; l) surrounding the scope and application of the probate exception, 2) their response also speaks to the conflict and misunderstanding of this Court's precedent in *Taylor v. Freeland and Kronz*, 503 U.S. 638 (1992) regarding the exemption of my probate case, and 3) their response demonstrates the need for guidance from this Court as to whether rights decreed by this Court to prove paternity for inheritance purposes in *Trimble*

v. Gordon, 430 U.S. 762 (1977) should trump bankruptcy jurisdiction.

Because of these conflicts and confusion, and important federal questions, this Court should directly address the questions in my petition (Supreme Court Rule 10(a) and 10(c).

RESPONSES TO THE WREZIC ATTORNEYS' ARGUMENTS

My Petition for a Writ of Certiorari is not meritless. This Supreme Court did not consider the above discussed Case No. 04-1544, *Marshall v. Marshall*, to be meritless when it granted certiorari September 27, 2005 to hear the same issues presented in my petition regarding the probate exception to federal jurisdiction.

A. The Wrezic attorneys have admitted in their brief that there is a division between the circuit courts on the applicability of the probate exception in bankruptcy courts.

The Wrezic attorneys' state on page 5 of their response: "As Ms. Ring indicates the exact parameters of the probate exception and its application in the bankruptcy courts is a contentious issue. Ms. Ring points out that the Seventh Circuit's per curiam Order noted:"

> We have not decided whether the exception applies in bankruptcy cases, although that questions divides our sister circuits.

Further on page 5, the Wrezic attorneys stated: "In short then, even though there is a division between the circuit courts on the applicability of the probate exception in bankruptcy courts, Petitioner's case does not implicate that issue".

The Seventh Circuit erred in that my case does indeed implicate the probate exception. My will contest case and appeal of that case is a probate mater, not a bankruptcy matter. The bankruptcy court did interfere with a probate matter by deciding the issues pending in the state appeals court and then settled the case, denying the state appeals court its statutory mandate to decide probate appeals in its own jurisdiction (Wis. Stat. 879.27).

On page 2 and page 3 of the Wrezic attorneys' response, they have incorrectly stated I failed to meet the evidentiary requirements required to defeat summary judgment. Summary judgment methodology was not any part of the Ozaukee County Probate Judge's decision to dismiss my will contest case. The only reason my case was dismissed in the probate court was because the Wrezic attorneys convinced a brand new judge only on the bench about a month or so that my will contest case was a paternity case barred by an 18 year statute of limitations. Because my case was not a paternity case but a probate case, I filed an appeal in the Wisconsin State Court of Appeals.

B. I did not waive my equal protection argument; this argument had been raised in the lower courts and is a valid argument.

Even the bankruptcy code recognizes the importance and rights of a person to establish paternity (11 U.S.C. 362(b)(2)(A)(i), but neither the bankruptcy code nor case law was followed in my case.

The Wrezic attorneys state that this equal protection argument was not raised in any form before the bankruptcy court, the district court or the Seventh Circuit and therefore the argument has been waived. This is a misstatement by the Wrezic attorneys. See below.

On November 25, 2002, My attorney filed a notice for a hearing to contest the settlement stating that my will contest case would also establish paternity, that the case "involves the highly personal issue of her own parentage" and that I wanted to "obtain closure though the legal system of the issue of the identify of her father". (November 25, 2002 Objection to the Settlement filed by Lloyd Blaney)

At the January 6, 2003 bankruptcy hearing when the settlement was approved, my attorney, Lloyd Blaney stated to the court that I wanted to "establish paternity at this time." (January 6, 2003 bankruptcy court transcript, page 5)

Excerpt from September 19, 2003 District Court Brief on p. 22 and p. 39:

The Wisconsin Probate Statute of 853.25(2), under which I filed my will contest case, would establish paternity in order for my rights as a Pretermitted Heir to be determined (see my Brief Rec. 12, Att. 3). My rights to contest my father's will to determine heirship and inheritance are the same whether I was a marital or non-marital child. If I were a marital child of Ralph Wrezic, I do not believe the bankruptcy court would be interfering with my will contest case. But because I am an illegitimate child the bankruptcy court does not seem to have a problem with settling my rights in this case. The actions of the bankruptcy court have taken away this personal right I have to establish paternity and heirship which is in violation of the equal protection clause of the 14th Amendment to the United States Constitution. A personal right does not pass to the bankruptcy estate. (p. 22)

These Wrezic attorneys have wrongfully and purposefully misused the law in my will contest case from the very beginning, from not doing their duty to notify me of my father's death and the probate proceedings, by failing to investigate to make a determination of my heirship rights,

and these duties are upheld by case law such as *In re the Estate of Thompson*, 261 W. 2d 723 (2003), and from what they have done here in this bankruptcy court by their misdirection and by using the bankruptcy system for their own benefit. These Wrezic attorneys have committed fraud on the bankruptcy court by withholding the real laws that apply to my case from the trustee that caused the trustee to determine my case was frivolous. These Wrezic attorneys have deprived me of my inheritance without any real due process of law, which caused the bankruptcy court to do the same, which is in violation of the due process components of the 5th and 14th Amendments to the Constitution (as was the case and stated in *O'Callaghan v. O'Brien*, 199 U.S. 89, 117 (1905). (p. 39)

Excerpt from March 28, 2005 Seventh Circuit Brief, p. 19, 1st paragraph:

My rights to contest my father's will to determine heirship and inheritance are the same whether I was a marital or non-marital child. If I were a marital child of Ralph Wrezic, I do not believe the trustee and federal courts would have interfered with my will contest case and appeal. But because I am an illegitimate child the federal courts do not seem to have a problem with settling my rights in this case.

I have rights under Wisconsin law and Supreme Court decisions to have paternity determined for inheritance rights. An illegitimate child has a constitutional protected right to inherit from their father, *Trimble v. Gordon*, 430 U.S. 762 (1977). Many state statutes dealing with inheritance rights have been amended to avoid unjustified discrimination against illegitimate children, i.e. *Reed v. Campbell*, 476 U.S. 852 (1986). The Supreme Court has repeatedly held that distinctions which disfavor illegitimates simple because they are illegitimate are invalid, *Gomez v. Perez*, 409 U.S. 535

(1973), *Weber v. Aetna Casualty & Surety Co.*, 406 U.S. 164 (1972), *Levy v. Louisiana*, 391 U.S. 68 (1968).

The actions of the federal courts have taken away this personal right I have, which is in violation of the equal protection clause of the 14th Amendment to the United States Constitution. In a like case, *O'Callaghan v. O'Brien*, 199 U.S. 89, 117 (1905), the Court found that the heirs at law had been deprived property without due process of law, in violation of the 14th Amendment.

Excerpt from July 12, 2005 Seventh Circuit Petition for Rehearing En Banc, p. 6, 2nd paragraph:

An illegitimate child has a constitutional protected right to inherit from their father, *Trimble v. Gordon*, 430 U.S. 762 (1977). If I were not an illegitimate child, I do not believe the bankruptcy court would have interfered with my will contest case and appeal. By taking my will contest appeal case away from me by settling it, the federal courts have violated my 5th Amendment Constitutional right of due process by the manner in which this case was taken away from me....

C. The Seventh Circuit is creating a conflict in federal law by not following the precedent set by this Supreme Court in *Taylor v. Freeland & Kronz*, 503 U.S. 638 (1992).

The Wrezic attorneys misapprehend the bankruptcy code and case law relating to exemptions and the above cited *Taylor* case.

I have totally exempted the entire value of my will contest appeal case, because the trustee did not object within the statutory time limits of 30 days, ownership of the case has returned to me (FRBP 4003(b), 11 USC 522(l)). Because my

case was fully exempted before the settlement was approved by the bankruptcy court, it is a void settlement because the court settled a case that was not property of the bankruptcy.

The Wrezic attorneys stated that I waived my exemption argument because I failed to raise that exemption argument at the hearing on January 6, 2003. The problem is that I tried to raise the exemption issue at the hearing, but the bankruptcy court judge would not allow me to speak.

January 6, 2003 bankruptcy court transcript, p. 11:

Ms. Ring: Your Honor, could I please say a couple words?

The Court: Nope.

Ms. Ring: Mr. Rameker is wrong. I have some exhibits for you.

The Court: I just said you were not invited to speak, ma'am.

Immediately after this hearing on January 6, 2003 I filed for a rehearing on the bankruptcy court's decision to settle my case, and I also filed the exhibits with my rehearing request that I would have presented to the bankruptcy court had the court given me the opportunity to speak.

In addition to trying to bring this exemption issue and several other issues up in the bankruptcy court on January 6, 2003, I have brought the exemption issue up in both the District Court and the Seventh Circuit. There are exceptions permitting issues to be raised despite not being raised below, i.e. (a) refusal to hear issue would result in miscarriage of justice, (b) if the appellant had no opportunity to raise the objection earlier at the proper juncture; (c) where there is at